

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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**FEDERAL COMMUNICATIONS COMMISSION  
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**In the Matter of**

**Application by BellSouth Corporation,  
BellSouth Telecommunications, Inc.,  
and BellSouth Long Distance, Inc. for  
Provision of In-Region, InterLATA  
Service in Louisiana**

**CC Docket No. 97-231**

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**COMMENTS OF INTERMEDIA COMMUNICATIONS INC. IN OPPOSITION  
TO BELL SOUTH'S APPLICATION FOR PROVISION OF  
IN-REGION, INTERLATA SERVICES IN LOUISIANA**

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November 25, 1997

File of the Commission  
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## SUMMARY

BellSouth Telecommunications, Inc.'s application to provide in-region, interLATA services in Louisiana must be denied at this time because BellSouth fails to meet its statutory obligations under the Telecommunications Act of 1996 (the "1996 Act").

The 1996 Act explicitly requires that BellSouth provide, among other things, interconnection, access to unbundled network elements, and resale. BellSouth's ability to provide interconnection, access, and resale are necessarily tied to the adequacy of its operations support systems. As the record in this proceeding unequivocally demonstrates, BellSouth's operations support systems are deficient and, moreover, do not provide competing carriers with a meaningful opportunity to compete. There can be no better demonstration of the shortcomings of BellSouth's operations support systems than the actual experiences of competing carriers who continue to run into operational problems with BellSouth at every turn. Indeed, several State regulatory commissions, including the Florida Public Service Commission and the Alabama Public Service Commission, recently have found that BellSouth's operations support systems are profoundly inadequate. The Department of Justice, in evaluating BellSouth's operations support systems, also has concluded that BellSouth's wholesale support processes are deficient.

Separate and apart from BellSouth's inadequate operations support systems, BellSouth has not provided verifiable comparative performance measurements to demonstrate nondiscrimination and parity of performance. Without ascertainable measures and standards, competing carriers and regulators do not have the ability to evaluate whether BellSouth is, in fact, affording competing carriers equivalent access and a meaningful opportunity to compete.

In addition, BellSouth's application to provide in-region, interLATA service is premature at this time because, in contravention of its statutory and contractual obligations, BellSouth does not provide certain unbundled network elements, resale services, and reciprocal compensation for the transport and termination of local traffic to Internet service providers. BellSouth's inability to provide the unbundled network elements requested by several competing carriers, including Intermedia, as well as its unilateral decision to withhold payment for reciprocal compensation for Internet traffic, render BellSouth's application fatally flawed. Thus, the Commission must, as a matter of law, reject BellSouth's application at this time.

Finally, the granting of BellSouth's application is not in the public interest. Intermedia's application to provide competitive local exchange service in Louisiana has been pending before the Louisiana PSC for over 14 months. Allowing BellSouth to enter the in-region, interLATA services market, while the Louisiana PSC has been unable to devote the resources necessary for the timely processing of CLEC applications, will put CLECs at a competitive disadvantage in the emerging "one-stop-shopping" telecommunications market.

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To the Commission:

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**INTERMEDIA COMMUNICATIONS INC.** ("Intermedia"), by its undersigned counsel and pursuant to the Commission's public notice, dated November 6, 1997,<sup>1</sup> hereby respectfully submits its comments in opposition to BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc.'s request for in-region, interLATA authority under Section 271<sup>2</sup> of the federal Telecommunications Act of 1996. Intermedia submits that BellSouth

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<sup>1</sup> Public Notice, DA No. 97-2330 (Nov. 6, 1997).

<sup>2</sup> 47 U.S.C. § 271.

Telecommunications, Inc.'s ("BellSouth") application must be denied because BellSouth fails to meet its statutory obligations under Section 271.

**I. BACKGROUND AND INTRODUCTION**

Intermedia is one of the country's largest and fastest growing competitive local exchange carriers ("CLEC"), providing a full range of local and long distance services to business and government end-user customers, long distance carriers, information service providers, resellers, and wireless carriers. Intermedia is known for its ability to package customized, "no assembly required" solutions to meet each customer's specific requirements. Intermedia provides voice, video, and data services, including frame relay and Internet access, to customer locations in over 1,200 cities nationwide and internationally--offering seamless end-to-end connectivity virtually anywhere in the world.

Intermedia is not currently authorized to provide competitive local exchange services in Louisiana. Intermedia filed an application to provide competitive local exchange service with the Louisiana Public Service Commission ("Louisiana PSC") on September 16, 1996. The application remains pending with the Louisiana PSC, 14 months after the application was filed. Thus, although Intermedia has an interconnection agreement with BellSouth, Intermedia is unable to commence local exchange operations in Louisiana at this time.<sup>3</sup> Intermedia is certified,

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<sup>3</sup> That non-arbitrated interconnection agreement was approved by the Louisiana PSC pursuant to Section 252(e) of the 1996 Act. The interconnection agreement provides for, among other things, interconnection, access to unbundled network elements, resale of BellSouth's retail services, and mutual compensation for the transport and termination of local traffic. Moreover, the interconnection agreement contemplates the provision of unbundled network elements and services necessary to provide data services--a major component of Intermedia's business strategy.

however, to provide competitive local exchange services in the rest of BellSouth's nine-state territory, and is providing such services in those states.

Although Intermedia has not been able to provide competitive local exchange services in Louisiana because of the Louisiana PSC's delay in granting Intermedia's application, Intermedia's experience in other states in which BellSouth is the incumbent local exchange carrier ("ILEC") demonstrates that BellSouth does not, and cannot at this time, meet its statutory obligations under the 1996 Act.

II. RECENT ACTUAL EXPERIENCES OF INTERMEDIA AND OTHER CLECs DEMONSTRATE UNEQUIVOCALLY THAT BELL SOUTH CANNOT QUALIFY FOR SECTION 271 AUTHORIZATION BECAUSE BELL SOUTH'S OSS ARE DEFICIENT AND DISCRIMINATORY.

Problems with BellSouth's operations support systems ("OSS")<sup>4</sup> and other related items demonstrate that BellSouth is unable to provide interconnection, access to unbundled network elements, and resale, among other things, pursuant to Section 271(c)(2)(B) of the 1996 Act (the "Competitive Checklist"). These shortcomings, as discussed below, compel rejection of BellSouth's application.

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<sup>4</sup> BellSouth's operations support systems and related personnel are centralized. Thus, Intermedia's experience in other states served by BellSouth is reflective of the situation in Louisiana. As BellSouth affiant Keith Milner acknowledges in his affidavit, "BellSouth's processes are identical in all nine states for ordering, provisioning, maintaining and repairing network facilities and services and for rendering a bill." Affidavit of W. Keith Milner, at 3.



In its recent *Ameritech-Michigan Order*,<sup>5</sup> the Commission reaffirmed the importance of providing nondiscriminatory access to the Bell Operating Companies' ("BOCs") OSS. In rejecting Ameritech-Michigan's Section 271 application, the Commission reaffirmed that new entrants must have equivalent access to the functions performed by the systems, databases, and personnel--i.e., OSS--that are used by the ILECs to support telecommunications services and network elements. The Commission further reaffirmed its finding in the *Local Competition Order*<sup>6</sup> that, in order to meet the nondiscriminatory standard of OSS, an ILEC must provide to competing carriers access to OSS functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing that is equivalent to what it provides itself, its customers, or other carriers.<sup>7</sup>

The Commission also concluded that ILECs must generally provide network elements, including OSS functions, on terms and conditions that provide an efficient competitor with a "meaningful opportunity to compete."<sup>8</sup> Without equivalent access to the BOCs' OSS, the Commission found, many items required by the checklist, such as resale, unbundled loops, unbundled local switching, and unbundled local transport, would not be practically available.

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<sup>5</sup> *Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-region, InterLATA Services in Michigan*, Memorandum Opinion and Order, CC Docket No. 97-137 (rel. Aug. 19, 1997) (*Ameritech-Michigan Order*).

<sup>6</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, CC Docket no. 96-98 (rel. Aug. 8, 1996) (*Local Competition Order*).

<sup>7</sup> *Ameritech-Michigan Order*, at ¶ 130.

<sup>8</sup> *Ameritech-Michigan Order*, at ¶ 130.

As Intermedia demonstrates in these comments, BellSouth's provision of access to OSS does not satisfy the requirements the Commission has recently found to be critical in determining BOC compliance with the 1996 Act. Indeed, this conclusion is supported by the recent public statements of high-ranking BellSouth executives. For example, David Markey, BellSouth's Vice President for Governmental Affairs, recently acknowledged that "[BellSouth's] application isn't likely to meet all of the standards for interLATA market clearance outlined by the [FCC]."<sup>9</sup>

Separate and apart from public statements from high-ranking BellSouth executives explicitly acknowledging that BellSouth does not meet the Commission's OSS requirements, BellSouth clearly has not demonstrated that the OSS access it provides to competing carriers is equivalent to the OSS access it provides to itself in terms of quality, accuracy, and timeliness. BellSouth's CLEC OSS interfaces are functionally inferior to those used by BellSouth. For example, although BellSouth uses an integrated preordering and ordering system when it places its own orders, competing carriers are offered separate and cumbersome interfaces for preordering and ordering. Similarly, BellSouth's own interfaces offer numerous functions that are not offered via the CLEC OSS interfaces. For instance, BellSouth can validate an address through the Direct Order Entry ("DOE") system, but the same cannot be done through the Electronic Data Interchange ("EDI") system offered for use by CLECs.

Criticisms regarding BellSouth's OSS interfaces are not without merit. Indeed, the experiences of competing carriers in BellSouth's territory unequivocally demonstrate that

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<sup>9</sup> "BellSouth Plans to Apply Under Track B," TR Daily, Sept. 29, 1997. *See also* "BellSouth 'Wouldn't Be Surprised by FCC Rejection of Sec. 271 Bid in S.C.," Communications Daily, Vol. 17, No. 177, Sept. 12, 1997; "BellSouth Says OSS System Meets Act's Mandates, Disputes Areas of FCC Ruling on Ameritech Bid," TR Daily, Sept. 11, 1997.

BellSouth has not established systems that will process orders for unbundled network elements and resale services in a reasonable, timely, and nondiscriminatory manner. Intermedia itself has experienced, and continues to experience, major delays in the ordering and provisioning process. These collective experiences explain why fundamental problems with BellSouth's OSS must first be addressed before BellSouth's entry into the in-region, interLATA market can be allowed. Intermedia's experiences are more fully discussed in Intermedia's comments and reply comments in CC Docket No. 97-208, which are attached hereto and incorporated herein by reference as **Appendix A** and **Appendix B**, respectively.

**III. BELLSOUTH FAILS TO PROVIDE CERTAIN UNBUNDLED NETWORK ELEMENTS AS REQUIRED BY THE 1996 ACT.**

Section 271(c)(2)(b)(ii) imposes upon BellSouth the obligation to provide nondiscriminatory access to network elements in accordance with the requirements of Sections 251(c)(3) and 252(d)(1). The 1996 Act contemplates that competitors will use interconnection and unbundled network elements to provide a whole spectrum of competitive local services, including voice, data, and video. As a competing provider whose network design, service mix, and customer base focus more heavily on data services than on traditional voice services, Intermedia has been interested in the BellSouth services and unbundled network elements that are necessary for the provision of frame relay and other digital data services. Intermedia sought these applications when it first requested from BellSouth data circuits as unbundled network elements. Despite extensive and continued discussions and correspondence with BellSouth personnel, Intermedia still has not been able to obtain unbundled digital loops and related components critical to Intermedia's data services. A detailed rendition of the facts surrounding BellSouth's failure to provide the unbundled data elements and related components requested by

Intermedia was provided in Intermedia's comments and reply comments in CC Docket No. 97-208, which are attached hereto and incorporated herein by reference as **Appendix A** and **Appendix B**, respectively.

Moreover, statements by BellSouth witnesses in proceedings before several State commissions provide a very disturbing indication that BellSouth may be reneging on its commitment to Intermedia to provide unbundled data loops altogether. For example, during cross-examination in the recently concluded Section 271 proceeding in Florida, BellSouth witnesses stated that it was BellSouth's position that BellSouth was not obligated to provide any unbundled data loops that were not specifically ordered by a state regulatory commission in an arbitration proceeding. Because Intermedia entered into a voluntarily negotiated interconnection agreement with BellSouth--and did not bring the agreement into arbitration--BellSouth's position suggests that BellSouth will not provide the 56 and 64 kbps data loops that Intermedia has specifically requested, and that BellSouth expressly agreed to provide more than a year ago. Intermedia considers these revelations at this late date to be a complete repudiation of BellSouth's earlier commitments to Intermedia, and a blatant contradiction of the understanding that BellSouth and Intermedia have had for over a year.

**IV. BELLSOUTH'S REFUSAL TO PAY MUTUAL COMPENSATION FOR LOCAL INTERNET TRAFFIC RENDERS BELLSOUTH NON-COMPLIANT WITH THE INTERCONNECTION AND MUTUAL COMPENSATION PROVISIONS OF SECTION 271.**

Sections 271(c)(2)(B)(i) and 271(c)(2)(B)(xiii) govern BellSouth's obligations with respect to interconnection, reciprocal exchange of traffic, and mutual compensation. The record in this proceeding demonstrates that BellSouth does not comply with these obligations.

As more fully discussed in Intermedia's comments and reply comments in CC Docket No. 97-208, BellSouth has informed Intermedia and other CLECs that it will refuse to pay mutual compensation for local calls terminated to ISPs located on Intermedia's network. Intermedia's interconnection agreement does not exclude local calls to Internet service providers, does not limit or restrict the definition of local calls or BellSouth's obligation to provide mutual compensation for them, and contains no discussion of local calls to ISPs. During the negotiations between BellSouth and Intermedia that resulted in their interconnection agreement, BellSouth never once raised the issue of excluding local calls to ISPs from mutual compensation. Similarly, to date, BellSouth has never proposed any means by which such local calls could be identified, distinguished from other local calls, and excluded from the measure of local traffic that is subject to mutual compensation.

Moreover, Intermedia has been paying mutual compensation rates for traffic that it terminates on BellSouth's network without regard to whether those calls are made to ISPs or other customers on the BellSouth network. Intermedia has reason to believe that it has in fact been paying compensation to BellSouth for calls terminated to ISPs on the BellSouth network. The fact that no discussion of excluding local calls to ISPs was ever conducted with Intermedia prior to BellSouth's recent announcement,<sup>10</sup> and BellSouth's documented business practices of treating calls to ISPs as local calls, establish a *prima facie* case that no such

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<sup>10</sup> It is interesting to note that only recently has BellSouth begun to assert that it is not obligated to pay mutual compensation for ISP-bound local traffic. For example, nowhere in the supporting testimony filed by BellSouth in the Georgia Section 271 proceeding was there any mention of ISP-related issues. Similarly, Intermedia is unable to find references to ISP mutual compensation issues in the supporting testimony filed by BellSouth in the Alabama Section 271 proceeding.

restriction was contemplated by BellSouth and Intermedia at the time the interconnection agreement was signed, or during the time it was implemented. As a result, on the basis of the record in this proceeding, the Commission must conclude that BellSouth fails to meet its interconnection and mutual compensation obligations under Sections 271(c)(2)(B)(i) and 271(c)(2)(B)(xiii) of the 1996 Act.

V. **BELLSOUTH HAS NOT DEMONSTRATED PARITY OF ACCESS THROUGH READILY ASCERTAINABLE AND VERIFIABLE PERFORMANCE MEASURES AND STANDARDS.**

In fulfilling BellSouth's interconnection, unbundling, and resale obligations, BellSouth performs a variety of wholesale functions for competitors, many of which BellSouth also performs in providing retail services. The ability to detect discrimination in BellSouth's performance of these functions is necessarily dependent upon the establishment of performance measures and standards that will permit competing carriers and state and federal regulators to measure BellSouth's performance. The development of appropriate measures and standards is thus critically important to determining whether the local exchange market is irreversibly opened to competition and that there are no artificial barriers to entry into the local exchange market. Similarly, the establishment of performance measures and standards will ensure that, once BellSouth is allowed entry into the in-region, interLATA market, the local market will remain open, and that backsliding will not go undetected. Clearly, an obligation to perform in a nondiscriminatory manner is meaningless if no provisions exist to monitor performance and ensure ongoing compliance.

The Commission has time and again emphasized the nondiscrimination and parity obligations of the ILECs. In its *Local Competition Order*, for instance, the Commission

underscored that the ILECs' nondiscriminatory support for competitive local exchange carriers is critical to the ultimate development of local competition. Most recently, in its *Ameritech-Michigan Order*, the Commission once again emphasized that ILECs must provide nondiscriminatory support regardless of whether a CLEC utilizes resale, unbundled network elements ("UNEs"), or its own facilities to provide local service. In this regard, the Commission concluded that a BOC must provide empirical evidence that it is in fact providing access to UNEs and resale services in a nondiscriminatory manner.<sup>11</sup>

Similarly, in the *Ameritech-Michigan Order*, the FCC found that in order to meet the nondiscriminatory standard for OSS, an ILEC must provide to competing carriers access to OSS functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing that is equivalent to what it provides itself, its customers or other carriers. Additionally, the FCC concluded that ILECs must generally provide network elements, including OSS functions, on terms and conditions that provide an efficient competitor with a meaningful opportunity to compete.<sup>12</sup> Finally, the FCC suggested that Ameritech-Michigan submit the following data: (1) average installation intervals for loops, (2) comparative performance information for unbundled network elements, (3) service order accuracy and percent flow through, (4) held orders and provisioning accuracy, (5) bill quality and accuracy, and (6) repeat trouble reports for unbundled network elements.<sup>13</sup>

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<sup>11</sup> *Ameritech-Michigan Order*, at ¶ 160.

<sup>12</sup> *Ameritech-Michigan Order*, at ¶ 130.

<sup>13</sup> *Ameritech-Michigan Order*, at ¶ 212.

It is clear, therefore, that performance standards and measures are critical, from the standpoint of both competing carriers and regulators, in determining the ILECs' compliance with their nondiscrimination and parity obligations. As the Department of Justice recently has concluded in evaluating BellSouth's application for in-region, interLATA relief in South Carolina:

[P]roper performance measures with which to compare BOC retail and wholesale performance, and to measure exclusively wholesale performance, are a necessary prerequisite to demonstrating compliance with the [FCC's] "nondiscrimination" and "meaningful opportunity to compete standards." Without comprehensive measures as a means of tracking performance and a track record of performance under those measures, it will be difficult--if not impossible--for competitors and regulators to detect backsliding of performance after in-region interLATA entry is authorized.<sup>14</sup>

The record in this proceeding demonstrates that BellSouth's measurements are inadequate. For instance, a careful evaluation of BellSouth's proposal demonstrates that it does very little, if at all, to address pre-ordering, ordering, and billing. Rather, BellSouth's proposal improperly focuses on the maintenance category and contains very few measurements relating to provisioning. Similarly, BellSouth's resale performance measures do not include a performance measure for average installation interval for resale, and lack sufficient specificity to detect whether parity of service is being offered. Similarly, the measurements do not provide the level of disaggregation necessary to meaningfully evaluate BellSouth's resale performance.

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<sup>14</sup> *Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc. for Provision of In-Region, InterLATA Services in South Carolina*, CC Docket No. 97-208, Evaluation of the United States Department of Justice, at A-6 (Nov. 4, 1997) (*DOJ South Carolina Evaluation*).



Perhaps the single most obvious deficiency of BellSouth's proposed measurements is that they are target-based. For example, rather than providing the average interval for loops to permit side-by-side comparison, BellSouth's proposal only provides data concerning percentage of appointments met. This methodology clearly masks discrimination. Where BellSouth proposes to provide intervals for provisioning and maintenance of UNEs, the list of UNEs for which provisioning and maintenance intervals are provided is incomplete.

The Department of Justice, in reviewing BellSouth's performance measures in South Carolina, has similarly concluded that BellSouth's measures are inadequate:

BellSouth has no performance measurements for pre-ordering functions; few measurements for ordering functions; and no measurements for billing timeliness, accuracy, and completeness. BellSouth is also missing numerous significant measurements involving service order quality, operator services, directory assistance, and 911 functions. Also, while BellSouth has committed to measuring firm order confirmation cycle time and reject cycle time, the development of these measurements is incomplete and thus results are not yet available. Collectively, these deficiencies prevent any conclusion that adequate, nondiscriminatory performance by BellSouth can be assured now or in the future.<sup>15</sup>

Moreover, the Department of Justice has found, after a careful review of BellSouth's South Carolina filings, that BellSouth has failed "to institute all of the necessary wholesale performance measurements," which "prevents a determination that BellSouth is currently in compliance with the checklist requirements or that compliance can be assured in the future."<sup>16</sup>

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<sup>15</sup> DOJ South Carolina Evaluation, at 47.

<sup>16</sup> *Id.*, at 29.

BellSouth proposes to use Statistical Process Control ("SPC") to plot data distribution. SPC, however, is not suited for the types of comparison and data analysis required to determine BellSouth's discriminatory performance. Indeed, the Staff of the Florida Public Service Commission recently found inadequate BellSouth's use of SPC to map its operational data distribution. The Staff concluded that

BellSouth's Statistical Process Control is [inadequate] to demonstrate nondiscrimination and parity, since the SPC is generally utilized in stable, controlled, single system and manufacturing environment. Staff believes that the SPC has had limited application, if any, in the service sector. Staff agrees with AT&T that SPC is not adequate to compare two sets of performance data for nondiscrimination. Staff believes that BellSouth is potentially misapplying the SPC by attempting to use it to monitor multi-system processes in the service environment as witness Pfau argues. Staff agrees with AT&T that the processes utilized to inject competition in the local exchange market are rather new processes, and therefore, lack the level of maturity that would warrant classifying these processes as stable.<sup>17</sup>

Finally, separate and apart from the fundamental failings of BellSouth's performance measures, BellSouth must provide performance standards relating not only to traditional voice services, but to other advanced data services provided by BellSouth as well. While traditional performance standards are helpful, standards that focus on data services are particularly helpful to Intermedia and other CLECs that provide data-oriented services in addition to traditional voice services. Intermedia attaches to these comments as **Appendix C** Julia Strow's rebuttal testimony in the Georgia performance standards proceeding.

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<sup>17</sup> *Consideration of BellSouth Telecommunications, Inc.'s Entry into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996*, Docket No. 960786-TL, Staff Recommendation (Oct. 22, 1997).

**VI. BELLSOUTH'S ENTRY INTO THE IN-REGION, INTERLATA MARKET IN LOUISIANA AT THIS TIME IS NOT IN THE PUBLIC INTEREST.**

Section 273(d)(3) provides that the FCC "shall not approve [a BOC application to provide in-region, interLATA services] ...unless it finds that -- (A) the petitioning [BOC] has... fully implemented the competitive checklist...; and (C) the requested authorization is consistent with the public interest, convenience, and necessity."<sup>18</sup> Thus, the Commission has concluded that compliance with the checklist alone is not sufficient to open a BOC's local telecommunications markets to competition.<sup>19</sup> In this regard, the Commission determined that its inquiry into whether BOC entry into a particular in-region, interLATA market is consistent with the public interest should focus on the status of market-opening measures in the relevant local exchange market."<sup>20</sup>

In Louisiana, the public interest clearly will not be served by the entry of BellSouth into the in-region, interLATA market. The lack of "market-opening measures" in Louisiana is demonstrated by the fact that Intermedia's application to provide competitive local exchange services in Louisiana ("Application") has been sitting with the Louisiana PSC for over one year and has still not been approved. Intermedia filed its Application on September 16, 1996. However, it was not until April 27, 1997, more than *seven months* after the date of filing, that Intermedia was initially contacted by a staff member of the Louisiana PSC with a request for additional information for the Application.

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<sup>18</sup> 47 U.S.C. § 271(d)(3) (emphasis added).

<sup>19</sup> Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, CC Docket No. 97-137, ¶ 389 (rel. Aug. 19, 1997) (*Ameritech Order*).

<sup>20</sup> *Id.* at ¶ 385.

Subsequently, there was some miscommunication with respect to Intermedia's file, apparently due to the fact that the attorney handling the file left the Louisiana PSC. After clarification in late June 1997 from the Commission as to the additional information that would be required in connection with its Application, Intermedia sent a revised tariff to the Louisiana Commission on October 8th. To date, the Application has still not been approved.

The entire process to obtain CLEC authorization in Louisiana has so far taken Intermedia over one year and two months and is still not complete. At the same time, the Louisiana PSC has found the staff members and other resources to conduct and complete an entire proceeding devoted to BellSouth's Petition for Approval of its Draft 271 Application. The Louisiana PSC's recommendation that BellSouth be permitted by the Commission to enter the in-region, interLATA market in Louisiana is completely inequitable in light of the lack of current procedures to timely process applications by competitive local exchange carriers.

The Commission specifically stated in the *Ameritech Order* that its public interest inquiry would include information about "state and local laws, and other legal requirements, that may constitute barriers to entry into the local telecommunications market..."<sup>21</sup> The delay in processing Intermedia's Application, and the corresponding delay in Intermedia's ability to enter the local exchange market in Louisiana, constitutes such a barrier to entry. The Commission recognized that while the BOC may not be able to eliminate such "discriminatory or onerous regulatory requirements, ...local competition will not flourish if new entrants are burdened by such requirements."<sup>22</sup>

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<sup>21</sup> *Ameritech Order* at ¶ 396.

<sup>22</sup> *Id.*

Because BellSouth's entry into the in-region, interLATA services market is not in the public interest, its application should be denied by the Commission.

**VII. CONCLUSION**

BellSouth's application to provide in-region, interLATA services in Louisiana must fail at this time. BellSouth does not comply with the requirements of Section 271, including but not limited to, interconnection, unbundling, and resale. Moreover, BellSouth's OSSs and performance measures are severely inadequate. Similarly, approval of BellSouth's application at this time is not in the public interest. Allowing BellSouth to enter the in-region, interLATA market at this time, while the Louisiana PSC does not have the resources available to timely process the applications of competitive local exchange carriers, will effectively put CLECs at a competitive disadvantage in the emerging "one-stop-shopping" telecommunications market.

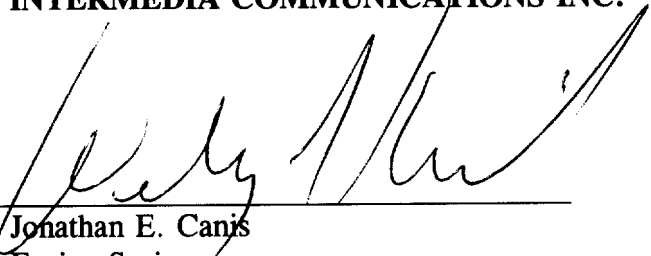
**Intermedia Communications Inc.  
BellSouth Telecommunications, Inc.  
Louisiana**

WHEREFORE, for all the foregoing reasons, Intermedia Communications Inc. respectfully prays that the Commission reject BellSouth's application to provide in-region, interLATA services in Louisiana.

Respectfully submitted,

**INTERMEDIA COMMUNICATIONS INC.**

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November 25, 1997

Intermedia Communications Inc.  
BellSouth Telecommunications, Inc.  
Louisiana

## AFFIDAVIT

County of Hillsborough )  
State of Florida )

I, STEVEN BROWN, am the Director of State Regulatory Policy of Intermedia Communications Inc., and am authorized to make this Affidavit on behalf of said corporation. The statements made in the foregoing comments are true of my own knowledge, except as to those matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct this 25th day of November, 1997.

  
Steven Brown

Subscribed and sworn before me this  
25th day of November, 1997.



My Commission expires:



CLYDE E. DUNCAN  
Notary Public, State of Florida  
My Comm. Expires May 15, 1998  
No. CC37222  
Bonded thru Troy Fenn Inc. US

## **CERTIFICATE OF SERVICE**

I, Beatriz Viera, hereby certify that I have on this 25th day of November, 1997, served a copy of the foregoing "Comments of Intermedia Communications, Inc. in Opposition to BellSouth's Application for Provision of In-Region, InterLATA Services in Louisiana" upon the individuals listed below, by hand-delivery or U.S. first class mail, postage prepaid:

Janice Myles\*  
Policy and Program Planning Division  
Common Carrier Bureau  
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